

REMARKS

Applicants respectfully request reconsideration of the present application in view of the following commentary.

Applicants thank the Examiner for acknowledging the priority claim and for withdrawing the rejections under 35 U.S.C. §§ 112 and 102.

The Examiner maintained the provisional rejection of claims 7-18 over claims 16-29 of copending Application No. 10/788,410, and the provisional rejection of claims 7-18 over claims 35-39 and 43-46 of copending Application No. 11/097,391, on the grounds of nonstatutory obviousness-type double patenting.

By virtue of the concurrently filed terminal disclaimers against the '410 application, the stated basis for the provisional double patenting rejection over claims 16-29 of the '410 application is obviated.

The present application has a filing date of December 31, 2003, while the '391 application has a filing date of April 4, 2005. Pursuant to MPEP 804, "[i]f a 'provisional' nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer..." Accordingly, Applicants respectfully request withdrawal of the provisional double patenting rejection in the present application, which was filed earlier than the co-pending '391 application.

The present application is now in condition for allowance. Favorable reconsideration of the application is respectfully requested. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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